

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-2515

United States of America,

Appellee,

v.

Latoya Rose Hourston,

Appellant.

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Appeal from the United States
District Court for the Eastern
District of Arkansas.

[UNPUBLISHED]

Submitted: April 30, 2004

Filed: June 10, 2005

Before MORRIS SHEPPARD ARNOLD, FAGG, and SMITH, Circuit Judges.

PER CURIAM.

The Supreme Court of the United States granted certiorari in this case, vacated our judgment, and remanded the case to us for reconsideration in light of *United States v. Booker*, 125 S. Ct. 738 (2005). *See Hourston v. United States*, 125 S. Ct. 989 (2005), *granting cert. and vacating the judgment in United States v. Hourston*, No. 03-2515, 2004 WL 960034 (8th Cir. May 5, 2004) (unpublished per curiam). In *Booker*, 125 S. Ct. at 749-51, the Court held that sentence enhancements based solely on facts found by a court under mandatory federal sentencing guidelines violate the sixth amendment, which the Court then remedied by making the sentencing guidelines advisory rather than mandatory, *id.* at 764.

We have examined the relevant record and conclude that the defendant, Latoya Hourston, did not preserve a *Booker* issue, and that she is not entitled to plain-error relief because she cannot show that her substantial rights were affected, *see United States v. Pirani*, 406 F.3d 543, 550-53 (8th Cir. 2005) (en banc). We therefore conclude that *Booker* did not affect our previous opinion in this case. Accordingly we reinstate our prior opinion and again affirm the sentence imposed by the district court.¹

¹The Honorable George Howard, Jr., United States District Judge for the Eastern District of Arkansas.